

IN THE UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

In Re: COOK MEDICAL, INC., IVC FILTERS
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

Case No: 1:21-cv-01772
MDL No. 2570

This Documents Relates to Plaintiff(s):
MICHELE TOWLE

Civil Case No. 1:21-cv-01772

**MOTION TO SUBSTITUTE PARTY PLAINTIFF AND FOR LEAVE TO FILE
AMENDED SHORT FORM COMPLAINT**

COMES NOW, Plaintiff Michele Towle and files this motion to substitute her surviving brother, Michael Towle, as the proper plaintiff pursuant to Federal Rule of Civil Procedure 25(a)(1). In support therefore, Plaintiff respectfully shows the court the following:

1. Plaintiff Michele Towle filed the present action in the United States District Court of the Southern District of Indiana on June 16, 2021.
2. Plaintiff Michele Towle died on or about October 05, 2023.
3. On February 19, 2025, Plaintiff filed a suggestion of death pursuant to Federal Rule of Civil Procedure 25(a). See Doc. No. 26495. Plaintiff's counsel recently learned of the death of Michele Towle after contacting her brother.
4. Michael Towle, surviving brother of Michele Towle, is the proper party plaintiff to substitute for Plaintiff-decedent Michele Towle and has proper capacity to proceed forward with the surviving products liability lawsuit on Plaintiff-decedent's behalf, pursuant to Fed. R. Civ. P. 25(a)(1), stating, "[i]f a party dies, and the claim is not extinguished, the court may order substitution of the proper

party. A motion for substitution may be made by any party or by the decedent's successor or representative."

5. Plaintiff thus moves to substitute Michael Towle, as the personal representative of the Estate of Michele Towle, deceased, as Plaintiff in the present action.
6. Plaintiff also moves to amend the Complaint, as well as the caption of the Complaint, to correct the proper Plaintiffs (specifically Michael Towle, as personal representatives of the Estate of Michele Towle, deceased) and to update and include information, allegations, and actions within the Complaint to reflect that Plaintiff Michele Towle is now deceased.
7. A proposed First Amended Short Form Complaint is attached hereto as Exhibit A.
8. Pursuant to Federal Rules of Civil Procedure 15(a)(2), a party may amend its pleading only with the opposing party's written consent or the Court's leave. The Court should freely give leave when justice so requires.

WHEREFORE, counsel for Plaintiff requests this Court for the following relief (1) the Court substitute Michael Towle as the personal representative of the Estate of Michele Towle, deceased, as Party Plaintiff for Michele Towle; (2) the Court grant leave to file the attached First Amended Short Form Complaint; Case 1:21-cv-01772 and (3) the Court deem the attached First Amended Short Form Complaint filed instanter. A proposed Order is attached hereto as Exhibit B.

Date: February 19, 2025

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/s/Basil Adham

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CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2025, a copy of the foregoing was served electronically and notice of the service of this document will be sent to all parties by operation of the Court's electronic filing system to CM/ECF participants registered to receive service in this matter. Parties may access this filing through the Court's system.

/s/Basil Adham